

BEFORE THE FEDERAL COMMUNICATIONS COMMISSION

WASHINGTON, D.C. 20554

In the matter of)	
)	
Request for Review by)	
)	
ID Tech Solutions, Inc.)	
SPIN 143024449)	
)	
Schools and Libraries Universal Service)	CC Docket No. 02-06
Support Mechanism)	
)	

REQUEST FOR REVIEW
(Commitment Adjustments)

Funding year 2011 (7/1/2011 to 6/30/2012)

Form 471 Application: 807717

Applicant: Congregation Ahavas Chessed

Billed Entity Number: 197803

Funding Request Nos.: 2192706¹ and 2192731 (maintenance) and 2192767 (maintenance)

¹ Commitment Adjustment Letter dated December 26, 2012; copy attached for your convenience.

Funding year 2011 (7/1/2011 to 6/30/2012)

Form 471 Application: 807717

Applicant: Congregation Ahavas Chessed

Billed Entity Number: 197803

Funding Request Nos.: 2192744²

I. Introduction and Background

My name is Isaac Deutsch and I represent ID Tech Solutions, Inc. ID Tech Solutions, Inc. is a Service Provider under the Universal Service Support Mechanism for Schools and Libraries (the "E-rate program") and as such, I respectfully request review of the decision made by the Schools and Libraries Division (SLD) of the Universal Service Administrative Company, dated December 26, 2012 and December 27, 2012³ rescinding the above-mentioned funding requests on the Form 471 application cited above.

ID Tech Solutions, Inc. has been a participant, as a service provider, in the E-rate program since 2001. In all that time, we have met all the requirements of the E-rate program and have never before had a situation where commitments have been rescinded. In our adherence to the program requirements we have relied on the USAC website as the definitive information on eligibility.

Now USAC has come back to us for decisions made in 2011, citing no new information or documentation, stating that their previous determination of eligibility (supported by the Eligible

² Commitment Adjustment Letter dated December 27, 2012; copy attached for your convenience.

³ Although the situation is for the same applicant/Form 471, as you can see from the attached copies, SLD issued two letters, on two dates, covering different FRNs. As both letters refer to the same Form 471, I respectfully request that these be combined for consideration under one Request for Review.

Products Database) was incorrect. This has resulted in the issuance of Commitment Adjustment Letters on the above-cited Funding Request Numbers.

For each of the equipment FRNs the reason for the commitment adjustment was:

"After a thorough review, it was determined that the funding commitment for this request must be rescinded in full. During a review, it was determined that funding was provided for the following ineligible items: Bogen Quantum PBX expansion unit. ...On the SPAC Form, the authorized person certifies at Item 10 that the service provider has billed its customer for services deemed eligible for support. Therefore, USAC has determined that the service provider is responsible for this rule violation. Accordingly, the commitment has been rescinded in full and USAC will seek recovery of any improperly disbursed funds from the service provider."

For each of the maintenance FRNs the reason for the commitment adjustment was maintenance on the ineligible Bogen Quantum PBX expansion unit.

I disagree completely with the determination that the Bogen Quantum PBX expansion unit is ineligible. It was purchased because it was listed on the USAC website on the Eligible Products Database.

Although the website contains the following caveat:

"Applicants should generally be able to rely on entries in the database as eligible for funding, but products must be put to an eligible use pursuant to FCC rules. Many products are eligible only if used in certain ways, and an entry in the Eligible Products Database does not constitute an endorsement that a product is eligible in all circumstances."

I maintain that the Bogen Quantum PBX expansion unit was put to an eligible use and was not used in any ineligible way and therefore USAC was wrong in deciding that the unit is not eligible.

II. Discussion

The purpose of the Eligible Products Database is to give applicants and service providers access to information from manufacturers about products/services that are considered eligible for funding under the E-rate program. The decision whether to purchase specific equipment from Manufacturer A or Manufacturer B often comes down to whether or not the manufacturer is listed on the Eligible Products Database. This is how schools, which often do not have technical staff or other available resources to help them evaluate different brand offerings, can make “informed” decisions about the technology they need. It is also how service providers who sell a variety of products can determine the eligibility of a specific item, something that service providers in the E-rate program are held accountable for.

While it is fair to have a warning about eligible use on the Eligible Products Database, it seems beyond comprehension that, absent a finding of ineligible use, USAC can at any point come back and indicate that a product previously deemed eligible is, without further notice, ineligible and USAC can demand repayment of monies properly applied for and received.

USAC had ample opportunity to ask for clarification as to specific usage of the Bogen Quantum PBX expansion unit during Program Integrity Assurance (PIA) review. In fact, PIA did ask a number of questions which were all answered in a timely and complete fashion. At no time during PIA review were there indications that the unit would be deemed ineligible.

In addition, it seems inappropriate that USAC seeks repayment from the service provider for a “rule violation” when, in fact, the service provider was following all of the requirements set out on the

USAC website to ensure eligibility. This seems to be the epitome of an “arbitrary and capricious” decision.

Finally, if the equipment is in fact eligible, then the maintenance on such equipment would also be eligible. Therefore, I am making no separate argument regarding the rescission of the maintenance FRNs; the decision on the equipment will control the disposition of those FRNs.

It also should be noted that there has been no finding of fraud, waste or abuse or other inappropriate activity by either the service provider or the applicant. To allow the post-commitment rescission of a funding decision in such circumstances seems like an abuse of power on the part of USAC and should not be allowed to stand.

III. Prayer for Relief

I respectfully request that the Commission review the decision made by USAC, in light of all the circumstances involved, and reinstate the original funding commitment decision(s) made by USAC. The total amount of money that is at stake here is not inconsiderable; \$63,259.61 in equipment costs and \$5,400 in maintenance costs.

It should be noted that there will be a hardship on the part of students at Congregation Ahavas Chessed if ID Tech Solutions, Inc. has to repay the originally funded amounts totaling \$68,659.61. Congregation Ahavas Chessed is a 90% discount school; they simply do not have the available funds to pay for the equipment (and maintenance) in its entirety. However, if ID Tech Solutions, Inc. has to repay

USAC, it must seek recompense from the school anyway. It is simply not feasible for ID Tech Solutions to absorb the cost of equipment and maintenance already delivered and installed.

Again, I ask that the Commission consider the entire set of circumstances (including the potential economic hardship) in determining the appropriate relief in these cases.

Respectfully submitted,

